

June 19, 1998

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON

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REPORT AND DECISION ON APPLICATION FOR PRELIMINARY PLAT APPROVAL

SUBJECT: Department of Development and Environmental Services File No. **L97P0012**

REDFORD PROPERTY
(AKA THE MEADOW AT REDFORD RANCH)
Preliminary Plat Application

Location: Between 227th Avenue SE and 223rd Avenue SE, north of SE 16th Place (if all extended)

Applicant: Pacific Properties, *represented by* **Robert Johns**, Attorney At Law
Reed McClure, 701 Fifth Avenue #3600, Seattle, WA 98164

Department: Dept. of Development and Environmental Services, *represented by*
Greg Borba, Site Plan Review **Angelica Velasquez**, SEPA Section
900 Oakesdale Avenue SW 900 Oakesdale Avenue SW
Renton, WA 98055-1219 Renton, WA 98055-1219

SUMMARY OF DECISION:

Department's Preliminary Recommendation: Approve, subject to conditions
Department's Final Recommendation: Approve, subject to conditions (modified)
Examiner's Decision: Approve, subject to conditions (modified)

PRELIMINARY MATTERS:

Application or petition submitted: March 13, 1997
Complete application date: April 10, 1997

EXAMINER PROCEEDINGS:

Pre-Hearing Conference: March 19, 1998
Hearing Opened: June 15, 1998
Hearing Closed: June 15, 1998

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUE ADDRESSED:

- SEPA conditions

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owner/Developer: Mike Miller, Pacific Properties, 14410 Bel-Red Road, Bellevue, WA 98007

Engineer: Hugh G. Goldsmith & Associates, Inc.
1215 – 114th Avenue SE, Bellevue, WA 98004

Location: West of 227th Avenue SE and east of 223rd Avenue SE, and south of
SE 11th Street, and south of SE 16th Place, if all were extended

STR:	04-24-06
Zoning:	R8-P
Acreage:	13.75
Number of Lots:	77
Density:	5.6 dwelling units per acre
Typical Lot Size:	4,200 square feet
Proposed Use:	Detached single-family residences
Sewage Disposal:	Sammamish Plateau Water and Sewer District
Water Supply:	Sammamish Plateau Water and Sewer District
Fire District:	#10
School District:	Issaquah #411
Complete Application Date:	April 10, 1997

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the June 15, 1998 public hearing are found to be correct and are incorporated herein by reference. The LUSD staff recommends approval of the application, subject to conditions.
3. On April 10, 1997 Pacific Properties submitted preliminary plat applications to subdivide two contiguous properties into residential lots. The northerly parcel, comprising 13.75 acres and entitled The Meadow at Redford Ranch, is proposed for development at 77 single-family residential lots. To its south lies the Glen at Redford Ranch consisting of 6.4 acres and proposed for 28 single-family residential lots. A third parcel owned by Pacific Properties lies directly east of The Meadow and is subject to an application to develop 60 units of multi-family housing on approximately 5 acres under the name Overlook at Redford Ranch. The three related projects will share road access and drainage systems and will accommodate a total development of 165 dwelling units. The three properties are located on the Sammamish Plateau west of 228th Avenue Southeast, approximately midway between Southeast 8th Street and Southeast 16th Street. The parcels are currently undeveloped, with pasture areas on the east side gently declining to wooded slopes along the west property boundary.

4. Mitigated determinations of non-significance were issued for the two Redford Ranch preliminary plat applications on January 20, 1998. The conditions of mitigation attached to the threshold determinations require the construction of interim turn lanes at the project access road's intersection with 228th Avenue Southeast and treatment of site runoff for phosphorus removal.
5. Two timely appeals of the threshold determinations were filed by neighboring property owners, Dwight Roof and Nick and Erica Tiliacos. A pre-hearing conference was held by the King County Hearing Examiner's Office, and pursuant to pre-hearing order issued March 20, 1998, the preliminary plat review and SEPA appeal proceedings for the two plats were consolidated into a single hearing. Issues subject to review within the SEPA appeals were defined in terms of the downstream impacts resulting from surface water runoff from the Redford projects plus the cumulative traffic impacts of the Redford proposals on the Sammamish Plateau arterial system.

A previous appeal had been heard and decided on the MDNS issued for the Overlook multi-family project. This decision amended the MDNS for the Overlook proposal to include a traffic mitigation requirement for the intersection of Northeast 8th Street/228th Avenue Northeast and deferral of construction for the R/D system serving the three Redford properties until the plat appeals had been heard and decided.

6. Both Mr. Roof and Mr. and Mrs. Tiliacos have withdrawn their threshold determination appeals. As a consequence, the public hearing held on June 15, 1998 dealt primarily with plat issues, although the applicant stipulated to amendment of the MDNS to include mitigation for traffic impacts at Northeast 8th Street/228th Avenue Northeast consistent with the Overlook decision, as well as clarification of the existing SEPA condition relating to the project access road.
7. At the public hearing no neighborhood residents appeared to offer testimony on either plat application. A letter was received from Mr. Roof, however, requesting deferral of the Hearing Examiner's decision on these two projects "pending the final outcome of the Greens at Beaver Crest project, so as to benefit from the technical conclusions of that hearing."
8. Although there are certainly major similarities between the issues raised within the Greens at Beaver Crest hearing and various allegations presented on appeal with respect to the two Redford plats, Mr. Roof's suggestion discloses a fundamental misunderstanding of the hearing process. Most of the contested issues within the Greens hearing have been raised within the context of a SEPA threshold determination appeal. Mr. Roof's abandonment of his appeal in the instant case means that compliance with SEPA is no longer an issue in this proceeding. In the absence of an active SEPA appeal, the fact that the environmental issues which might have been pursued with respect to the Redford applications are similar in nature to those raised in The Greens hearing becomes merely an interesting but inconsequential observation. Moreover, the fact that there are similar issues raised in the two proceedings overlooks the fact that there are likely important differences as well, particularly with respect to the affected downstream drainage systems and sub-basins, traffic trip generation rates, and applicable transportation concurrency zones.

If The Greens proceeding at some point were to become relevant to review of the Redford applications, it would only be because The Greens decision concluded that the entire traffic concurrency process for the Sammamish Plateau was fundamentally flawed. If such an outcome occurred, however, it would affect not only the Redford proposals but potentially every land use application currently pending on the Plateau. The implications of such a decision would need to be confronted by County administrators on a general policy level, including consideration of whether such a decision constituted significant new information requiring withdrawal of

previously issued SEPA determinations. WAC 197-11-340 confers on the County SEPA official ample authority to respond to such a situation if it in fact arises, and it is premature to speculate upon such matters at this time.

CONCLUSIONS:

1. If approved subject to the conditions recommended below, the proposed subdivision makes appropriate provision for the public health, safety and welfare; serves the public use and interest; and meets the requirements of RCW 58.17.110.
2. The conditions of approval recommended herein, including dedications and easements, will provide improvements which promote legitimate public purposes, are necessary to serve the subdivision and are proportional to its impacts; are required to make the proposed plat reasonably compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.

DECISION:

The preliminary plat of The Meadow At Redford Ranch as revised and received on June 11, 1998 is APPROVED, subject to the following conditions of final approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. The plat shall meet the base density (and minimum density) of the R8-P zone classification. All lots shall meet the minimum dimensional requirements of the R8-P zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger. Minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. The applicant must obtain final approval from the King County Health Department.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended.
6. The applicant must obtain the approval of the King County Fire Protection Engineer certifying the adequacy of the fire hydrant, water main, and fire flow to meet the standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.

- a. Drainage plans and analysis shall comply with the 1990 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
- b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
- c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings #_____ on file with DDES and/or the Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with the plans on file."

- d. Core Requirement No. 1: Discharge at the Natural Location.

The applicant has received approval for the requested diversion of surface water for the westerly sub-basins (Variance File B97A1111). As proposed in the variance request, an off-site pipe system and improvements to downstream drainage system will be provided for conveyance of storm water. Improvements to the downstream conveyance shall be designed to have capacity for the 100-year storm. The conditions for variance approval shall be satisfied prior to approval of the project engineering plans.

- e. Core Requirement No. 3: Runoff Control.

Stormwater runoff control shall be provided using design standards as specified in the East Lake Sammamish Basin Plan. Facilities that drain to Wetland #61 shall be designed using the stream protection standard (BW2). The conventional detention standard (BW1) shall be used for other portions of the site. The runoff control facilities shall be located in a separate tract and dedicated to King County. Prior to engineering plan approval, the applicant shall demonstrate to the satisfaction of DDES that easement rights and/or permission from property owners have been obtained to improve the off-site drainage system.

- f. Special Requirement No. 7: Special Water Quality Controls.

Water quality requirements in the drainage manual will be satisfied by compliance with the SEPA mitigation's applied to this project. These conditions provide for three design options to limit the release of phosphorus concentrations. As noted in the SEPA determination, the conditions are in lieu of the biofiltration requirements in the drainage manual.

8. Road improvements shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
- a. SE 16th Place shall be improved as an off-site urban neighborhood collector street. Public road right-of-way shall be dedicated to King County prior to final plat approval. The location of the proposed intersection with 228th Ave. SE has been approved by road variance application No. L97V0021.
 - b. The on-site roads and private access tracts shall be improved in accordance with KCRS. Tract F shall be owned by King County for access to the detention facility. An ingress/egress easement shall be provided within Tract F for benefit of the serving lots.
 - c. Off-site road improvements on 227th Avenue SE and SE 16th Street are required to provide a second access to the subdivision pursuant to KCRS 2.20. The unimproved portion of 227th Ave. SE abutting the Glen at Redford Ranch property shall be improved as a full width urban subcollector. The existing portion of 227th Avenue SE shall be improved with a 14-foot lane and sidewalk on the west side. Southeast 16th Street shall also be widened to provide a 14-foot lane and sidewalk on the north side. The existing horizontal curvature of the roadway does not require modification. The street widening and pavement overlay shall be consistent with requirements in KCRS 4.01F. As recommended in the traffic report by TPE dated September 9, 1997 for the Glen at Redford Ranch project, tree trimming should be implemented along the roadways to improve vehicular sight lines.
 - d. As required by KCRS 5.03, street trees should be included in the design of all road improvements.
 - e. Modifications to the above road conditions may be considered by King County pursuant to the variance procedures in KCRS 1.08.
9. The following note shall be shown on the final engineering plan and recorded plat:

**RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE
AREAS AND BUFFERS**

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/ sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the

satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

10. The proposed subdivision shall comply with the sensitive areas requirements as outlined in KCC 21A.24. Permanent survey marking and signs, as specified in KCC 21A.24.160, shall also be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers (e.g., with bright orange construction fencing) shall be placed on the site, and shall remain in place until all construction activities are completed.
11. The proposed subdivision shall comply with the Sensitive Areas Ordinance as outlined in KCC 21A.24. Permanent survey markings and signs, as specified in KCC 21A.24.160, shall also be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers (e.g. with bright orange construction fencing) shall be placed on the site prior to any clearing, and shall remain in place until all construction activities are completed. Preliminary plat review has identified the following issues which apply to this project.
 - a. The streams, wetlands, and associated buffers within proposed Sensitive Area Tracts B and E shall be shown on the final engineering plans and recorded plat. A 15-foot BSBL shall also be shown from the final boundary of the tracts.
 - b. Buffer averaging has been proposed and may be permitted, subject to compliance with the provisions of KCC 21A.24.320B and 21A.24.360B, as determined by LUSD.
 - c. Alteration to Wetland D shall be permitted pursuant to KCC21A.330.K. The applicant shall submit a final wetland mitigation plan for review and approval by LUSD prior to engineering plan approval. Bonding may be required to assure implementation and success of the plan, subject to monitoring for a five year period.
 - d. If the applicant proposes to provide a road crossing over the Class 3 stream and its required buffer located at the northwest corner of the site, such crossing shall be consistent with KCC.24.370.G. The applicant shall submit a plan, which includes mitigation for such crossing, for review and approval by LUSD prior to engineering plan approval. Bonding may be required to assure implementation and success of the plan, subject to monitoring for a five year period.
12. The above-noted wetlands, streams and their associated buffers within the subject plat shall be placed in a sensitive areas tract (SAT). Tracts B and E shall be labeled as SAT's.
13. The applicant shall delineate all erosion hazard areas on the site on the final engineering plans. (Erosion hazard areas are defined in KCC 21A.06.415.) The delineation of such areas shall be approved by an LUSD senior geologist. The requirements found in KCC 21A.24.220 concerning erosion hazard areas shall be met, including seasonal restrictions on clearing and grading

activities.

14. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
15. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid," if the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
16. Lots within this subdivision are subject to King County Ordinance 21A.28, which imposed impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat received final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
17. Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14. A recreation and landscape plan shall be reviewed and approved by DDES and the King County Parks Division prior to engineering plan approval.
18. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation and/or open space area.
19. The following conditions have been established under SEPA authority as necessary to mitigate the adverse environmental impacts of this development. The applicant shall demonstrate compliance with these requirements prior to final approval.
 - a. The developer shall construct a northbound left turn lane and southbound right turn lane on 228th Avenue SE at the project entrance (on Southeast 16th Place) or the final plat approval will be delayed until King County's Capital Improvement Project to widen 228th Avenue SE, from NE 8th Street to Issaquah-Pine Lake Road is within 12 months of construction.
 - b. Runoff from impervious surfaces subject to vehicle use or storage and/or transfer of chemicals, petroleum products or wastes must be treated to remove 50 percent of the annual average total phosphorus concentration before discharge to Lake Sammamish or its tributaries (either natural or engineered). This goal may be met by treating the water quality flow (defined below) with one of the following three on-site treatment options. The design of the facilities shall be approved by King County Water and Land Resource Division (WLRD). Other options that provide an equivalent level of pollutant removal are also acceptable, but must be approved by WLRD.

Option 1: A large wetpond having a dead storage volume of at least 4.5 times the runoff from the mean annual storm. The mean annual storm is determined by

dividing the annual rainfall (in inches) by the number of storms in a typical year. In the Lake Sammamish area, the mean annual storm ranges from about 0.47 to 0.56 inches.

Option 2: A large sand filter treating 95% of the annual average runoff volume as computed by the KCRTS time series. If a detention facility does not precede the sand filter, a presettling pond of vault must be provided prior to the sand filter. The presettling pond must be sized to hold a volume of 0.75 times the runoff from the mean annual storm.

Option 3: A two-facility treatment train, with the first facility sized to treat the water quality flow (see below), and the second facility a sand filter sized to treat the flow from the first facility, or 90 percent of the annual average runoff volume as computed by the KCRTS time series.

The water quality flow is defined by one of the following:

- the flow generated by 64 percent of the 2-year 24-hour precipitation (SBUH model),
- the flow generated by 60 percent of the developed 2-year peak flow rate (KCRTS model), or
- the flow associated with 95 percent of the annual average runoff volume in the KCRTS time series (typically restricted to sand filter sizing).

This condition is in lieu of the biofiltration required under Core Requirement #3 in the King County Surface Water Design Manual (King County Comprehensive Plan Policies NE-302, NE-310 and NE-313).

- c. This project will have significant adverse impacts on the intersection of 228th Avenue NE/NE 8th Street. This intersection is projected to operate at LOS F in the AM and PM peak hours during the horizon year of this plat. To mitigate the development's impact to 228th Avenue NE/NE 8th Street, the plat shall not receive final approval until either:
- 1) Construction plans are approved and bonded to improve 228th Avenue NE/NE 8th Street intersection to LOS E or better by either this plat or other private development; or
 - 2) King County has a programmed intersection project for this intersection and the anticipated award of a construction contract for the intersection improvements is within 12 months.

ORDERED this 19th day of June, 1998.

Stafford L. Smith, Deputy
King County Hearing Examiner

TRANSMITTED this 19th day of June, 1998 to the parties and interested persons shown on the attached list.

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) **on or before July 6, 1998**. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council **on or before July 10, 1998**. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement. If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE JUNE 15, 1998 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT & ENVIRONMENTAL SERVICES FILE NO. L97P0012 – THE MEADOW AT REDFORD RANCH:

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Greg Borba, Pete Dye, Aileen McManus, Robert Johns, Tom Uren, and Mike Miller.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 Department of Development and Environmental Services File No. L97P0012
- Exhibit No. 2 Department of Development and Environmental Services Preliminary Report to the Hearing Examiner for the June 15, 1998 public hearing
- Exhibit No. 3 Application dated March 13, 1997
- Exhibit No. 4 Environmental Checklist dated March 13, 1997
- Exhibit No. 5 Mitigated Determination of Nonsignificance dated January 20, 1998
- Exhibit No. 6 Affidavit of Posting, April 29, 1997 (site posted)
- Exhibit No. 7 Site plan (revision) dated September 22, 1997
- Exhibit No. 8 Revised site plan dated June 11, 1998
- Exhibit No. 9 Assessor Maps (2)
- Exhibit No. 10 Storm Drainage Easement dated February 15, 1998
- Exhibit No. 11 Preliminary Drainage Plan dated March 19, 1998
- Exhibit No. 12 Drainage Variance (B97A1111) dated January 22, 1998
- Exhibit No. 13 Drainage Variance (B98A0024) dated February 3, 1998
- Exhibit No. 14 Level 3 Downstream Analysis dated September 19, 1997
- Exhibit No. 15 Road Variance (197V0021) dated September 4, 1997
- Exhibit No. 16 Wetland Report dated March 7, 1997
- Exhibit No. 17 Traffic Study dated March 11, 1997
- Exhibit No. 18 Habitat Evaluation Report dated March 5, 1997
- Exhibit No. 19 Letter from Nadine Zackrisson dated April 14, 1998
- Exhibit No. 20 Letter from Nadine Zackrisson dated May 21, 1998
- Exhibit No. 21 Memo from Laura Casey dated May 18, 1998
- Exhibit No. 22 Memo from Laura Casey dated June 3, 1998
- Exhibit No. 23 Revised Condition #11, adding language regarding the wetland mitigation plan
- Exhibit No. 24 Local vicinity map
- Exhibit No. 25 GIS Orthographic (aerial) map
- Exhibit No. 26 Letter dated May 29, 1998 from Jeff Eustis to Examiner withdrawing SEPA appeal
- Exhibit No. 27 Letter dated June 8, 1998 from Dwight Roof to Examiner withdrawing SEPA appeal
- Exhibit No. 28 Letter dated June 9, 1998 from Dwight Roof to Examiner